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March 23, 2012

Via ECFS

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: WC Docket Nos. 10-90, 07-135, 05-337, 03-109
CC Docket Nos. 01-92, 96-45
GN Docket No. 09-51

Dear Ms. Dortch:

On Wednesday, March 21, 2012, representatives of Central Texas Telephone Cooperative, Inc. (“Central Texas”) including undersigned counsel, Caressa Bennet and Kenneth Johnson of Bennet & Bennet, PLLC, Clay Sturgis of Moss Adams, Jamey Wigley, General Manager, Jimmy Horton, Network Operations Manager, and Lawana Drosche, Finance Manager for Central Texas, met, in a series of meetings, with 1) Christine Kurth, Wireline Counsel to Commissioner Robert McDowell of the Federal Communications Commission’s (“FCC” or “Commission”); 2) Angela Kronenberg, Wireline Legal Advisor to Commissioner Mignon Clyburn; and 3) Michael Steffen, Legal Advisor to Chairman Julius Genachowski, and Patrick Halley of the Wireline Competition Bureau (“Bureau”) to discuss the FCC’s proposed regression analysis model.¹ Central Texas commended the Bureau staff on its efforts to improve the proposed regression model, discussed specific improvements that still need to be made in light of the record and recent Peer Review,² and suggested that the Commission release the numerous changes the Bureau plans to make to the current model and seek further comment.

In the meetings, Central Texas noted that the FCC’s model used to perform the regression analysis did not take into account the length of loops – a major factor leading to high loop costs. Central Texas provided the attached maps and photographs of its network to illustrate this point.

¹ *Notice Concerning Universal Service Intercarrier-Compensation Transformation Proceeding*, Public Notice, DA 11-1966 (December 2, 2011).

² See March 9, 2012 Wireline Competition Bureau Ex Parte Filing filed by Patrick Halley (“Peer Review”).

Central Texas was encouraged that the FCC's Peer Review recognized the need for loop lengths as a possible variable, as well as other factors that lead to high loop costs such as the presence of bedrock.³

Central Texas discussed the inherent flaws in the current model that were put forth and analyzed in the Comments and Reply Comments filed in this proceeding, as well as FCC staff concerns discussed in the Peer Review.⁴ Central Texas was encouraged by the Bureau's indication that it was "considering" the use of an additional 17 data sets in its regression model that would take into account other factors that lead to high loop costs.⁵ In Central Texas's plea for additional time to examine the substantial changes the Bureau appears to be making to the model in order to cure its flaws, Central Texas pointed out that the FCC would be on much more solid legal ground if its expected model overhaul using new data sets, assumptions, and variables could be examined by interested parties prior to it being used to determine prudent expenses and cap support. Such notice, comment and "sufficient time"⁶ are the "safety valves in the use of... sophisticated methodology"⁷ such as the complex, quantile analysis-based regression model. The Bureau's release of 17 complex data sets that may or may not be used, and with no indication of *how* the data will be used, likely just weeks prior to an Order announcing a new regression model going into effect on July 1, 2012 simply does not give Central Texas and other parties the "time to allow for meaningful commentary."⁸ Central Texas is reduced to blindly hoping that Bureau efforts to cure the current, legally flawed model are successful. Being kept in the dark about the actual data the FCC "has employed in reaching the decisions"⁹ the FCC will make regarding the revised model does not provide Central Texas, or other entities affected by the model's results, with the statutory predictability and specificity¹⁰ needed to make broadband investments and puts the FCC in a questionable legal position to defend itself on appeal.

Specific Accounting Issues in Response to the Peer Review

In its series of meetings, Central Texas also discussed additional accounting-based changes needed in light of the FCC's Peer Review and committed to provide further details in this *ex parte* filing. Central Texas urged the Commission to carefully consider changes to the proposed regression limitations on capital and operating expenses based on the recent regression

³ Peer Review, Appendix B.

⁴ For example, one reviewer expressed concern that the model "may miss some high cost carriers, or mislabel others as high cost." *Id.* Such a conclusion, on its face, reflects the arbitrary nature of the model.

⁵ *Id.* at 2 and 3.

⁶ *Nat'l Ass'n of Regulatory Util. Comm'rs ("NARUC") v. FCC*, 737 F.2d 1095, 1121 (D.C. Cir. 1984).

⁷ *Sierra Club v. Costle*, 657 F.2d 298, 334, 397-98 & n. 484 (D.C. Cir. 1981)(citing cases); *see Engine Mfrs. Ass'n v. EPA*, 20 F.3d 1177, 1181-82 (D.C. Cir. 1994).

⁸ *Conn. Light & Power Co. v. Nuclear Regulatory Comm'n*, 673 F.2d 525, 530-31 (D.C. Cir. 1982).

⁹ *Conn. Light & Power Co.*, 673 F.2d at 530.

¹⁰ 47 U.S.C. § 254(b)(5) (requiring "specific and predictable support mechanisms").

analysis Peer Review. Particularly the comments made regarding the need to consider alternate underlying variables to predict costs, such as loop length instead of a simple loop count, and also the need to resolve omitted variable bias by including items such as bedrock, climate concerns, and other characteristics that increase carrier costs. In addition, both peer reviewers raised significant concerns over the underlying model assumptions such as disaggregating the total cost function and studying cost lines separately, a one-size-fits-all approach, the choice of what costs to cap, the use of a log-to-log framework, and significant number of zero values. While these listed items alone are material and should be remedied, in conjunction with these changes, Central Texas strongly recommended that the Commission conduct a similar peer review on the accounting aspects of the proposed regression, including utilizing the National Exchange Carrier Association (“NECA”) algorithm steps as the dependent variables in the regression equation instead of data lines, and not taking items such as accumulated depreciation into consideration.

Central Texas recommended that the FCC implement the following courses of action:

- Independent of the changes to the method to compute limitations, the FCC should not apply capital expense limitations to investment that has been made throughout the life of the company, but rather develop limitations based on the need for future expenditures.
- The capital and operating expense limitations should be delayed to facilitate proper review and resolve the current flaws in the regression analysis.
- During this delay, carriers need access to the updated regression model and to be given the opportunity to assess the results and provide the Commission further comments prior to implementation.
- Once the ultimate computations for the capital and operating expense limitations are determined, they should be performed and be available for a minimum of five years to allow for adequate planning.

Alternate Underlying Variables Are Needed to Predict Costs

As indicated in the Peer Review, the FCC’s regression model should be modified to incorporate more appropriate density measures as independent variables, such as subscribers per mile of loop plant.¹¹ The model in its current form is overly reliant on the absolute number of loops and does not take into consideration density concerns which lead to higher cost levels. Central Texas pointed out that one peer reviewer, Paroma Sanyal, determined that “arguably, the cost of one long loop will be greater than the cost of a short loop, and thus using the number of loops as a covariant distorts the cost predictions on the long loop carrier.”¹² Central Texas reiterated that the Bureau must incorporate such logic into any revised model.

¹¹ Peer Review, Appendix B.

¹² *Id.*

Resolve Omitted Variable Bias

The Peer Review indicates that several important factors that may explain loop costs have not been included. The areas cited are consistent with those expressed by the industry, pointing to the need for the regression caps to be modified to incorporate more appropriate terrain characteristics as independent variables, such as presence of bedrock, soil type, length of the construction season, and rainfall. The peer reviewers give numerous examples where characteristics such as those above would impact costs. In addition, one reviewer stated that “one is puzzled by the fact that in some regressions, the loop costs are higher for housing units in urban areas than rural areas” and that “the housing variable may be proxying for some omitted variables.”¹³ Central Texas reiterated its concern that the model in its current form omits crucial variables.

Accounting-Based Peer Review

While the Peer Review correctly noted significant concerns revolving around the regression model, variables, and assumptions, Central Texas argued that a similar process is needed on the approach taken as it relates to accounting and financial theory in order to determine the proper components in need of limiting. As such, Central Texas advocated for an additional, accounting-based review that would allow the Bureau to analyze and cure the accounting anomalies discussed herein.

Central Texas looks forward to continuing to work with the FCC on these issues. Should you have any questions or require additional information, please do not hesitate to contact me.

Respectfully submitted,

/s/ Kenneth C. Johnson

Kenneth C. Johnson

Attachments

cc: Christine Kurth
Angela Kronenberg
Michael Steffen
Patrick Halley

¹³ *Id.*











Central Texas Telephone Coop.

Naturalization & Immigration Circuit (Border Patrol)

Angelo State University
Fiber Link

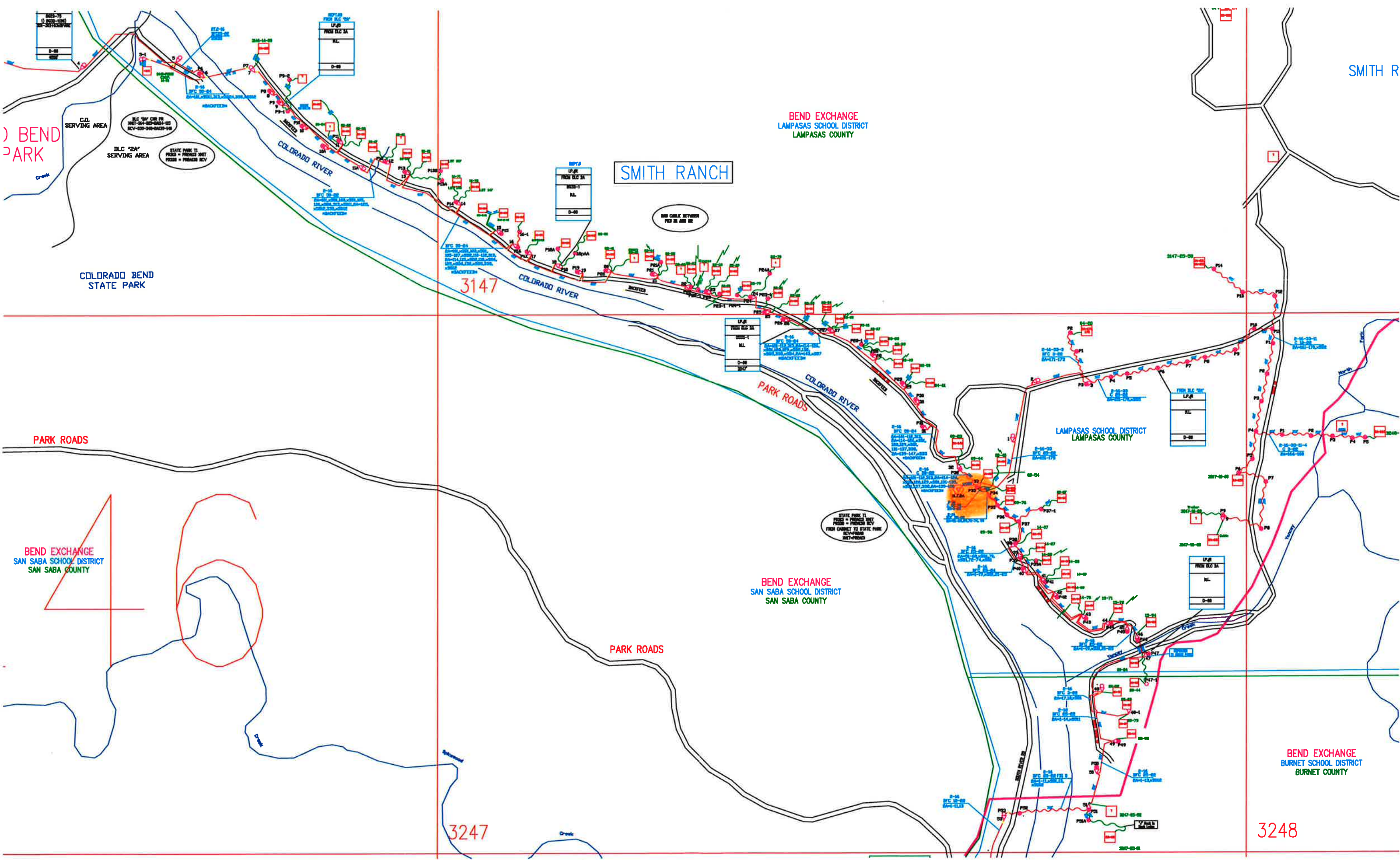
HWY 87 TO SAN ANGELO

HWY 87 TO SAN ANGELO

**Fiber Route for Angelo State University
Department of Information Resources Data
Center:**

- State of Texas Dept. of Information Resources
- West Texas Disaster Recovery Center
- Lone Star Education & Research Network
- Link between Cannon AFB-Clovis, NM to Goodfellow AFB-San Angelo, TX
- Link Between Cannon AFB-Clovis, NM to Kelley AFB-San Antonio, TX

- 18 - Cell Towers - Represented by
- 13 - United States Post Offices
- 10 - School Districts
- 2 - LCRA - Power Plant Monitoring & Weather Monitoring
- 3 - Pipeline Monitors (Seminole & Sunoco)
- 2 - Texas Lone Star Network Hubs
- Hill Country Transit Admin. Office- a Public Transportation System that is a Political Subdivision of the State of Texas
- National Weather Service Station
- Texas Dept Of Criminal Justice Center- Mens Medium Security Prison
- Texas Dept Of Transportation Center
- Texas Game Warden Training Facility (only Game Warden Training Facility in Texas)
- T1 line for Lockheed Martin
- State Park- Colorado Bend
- 100% DSL Availability



) BEND
PARK

COLORADO BEND
STATE PARK

SMITH RANCH

SMITH R

PARK ROADS

BEND EXCHANGE
SAN SABA SCHOOL DISTRICT
SAN SABA COUNTY

BEND EXCHANGE
SAN SABA SCHOOL DISTRICT
SAN SABA COUNTY

LAMPASAS SCHOOL DISTRICT
LAMPASAS COUNTY

BEND EXCHANGE
BURNET SCHOOL DISTRICT
BURNET COUNTY

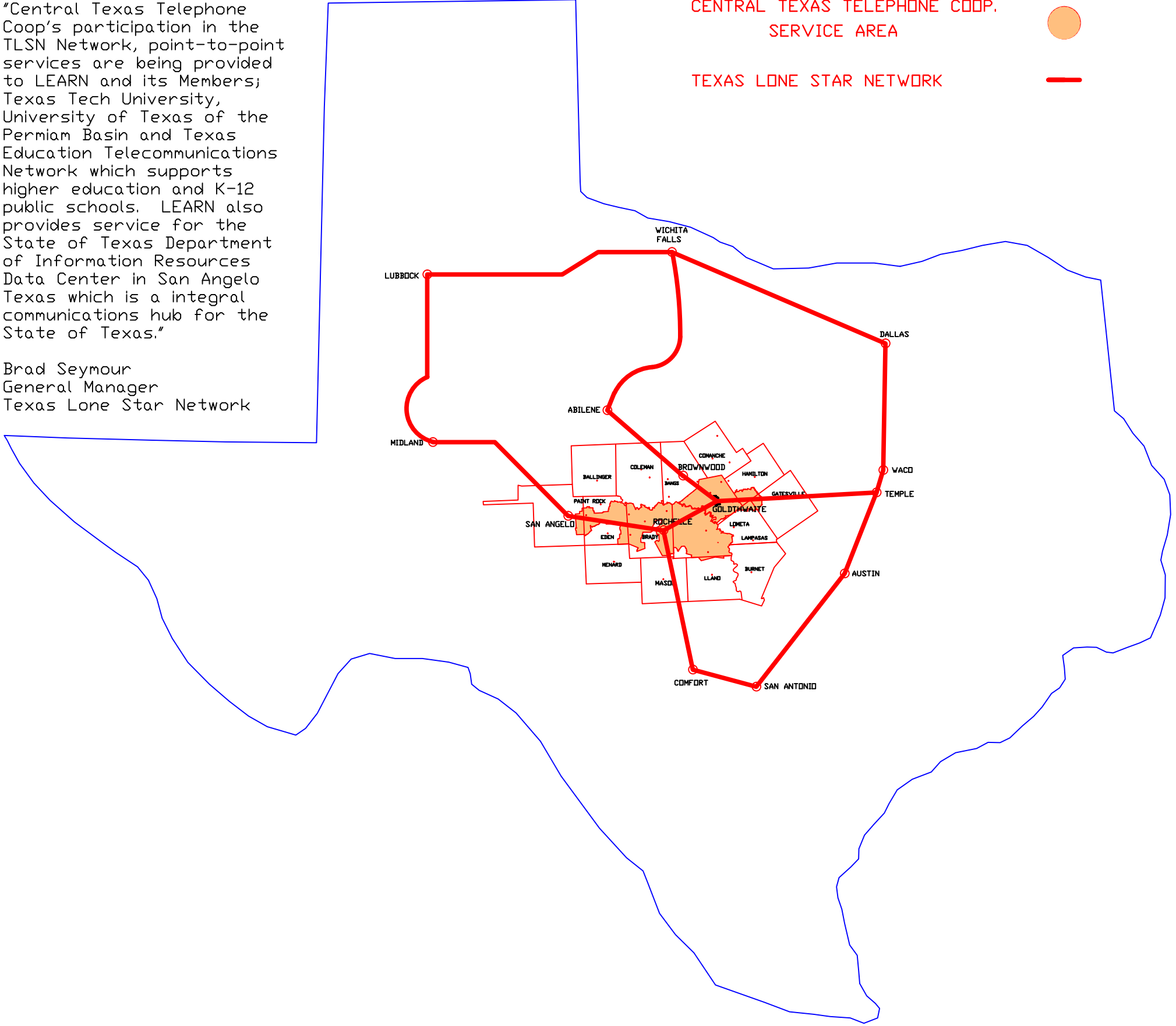
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3247

3248

"Central Texas Telephone Coop's participation in the TLSN Network, point-to-point services are being provided to LEARN and its Members; Texas Tech University, University of Texas of the Permian Basin and Texas Education Telecommunications Network which supports higher education and K-12 public schools. LEARN also provides service for the State of Texas Department of Information Resources Data Center in San Angelo Texas which is a integral communications hub for the State of Texas."

Brad Seymour
General Manager
Texas Lone Star Network



CENTRAL TEXAS TELEPHONE CO-OP INC.
GOLDTHWAITE, TEXAS

WASHINGTON D.C. AREA
68.3 Sq. Miles, 2011 Population 617,996

